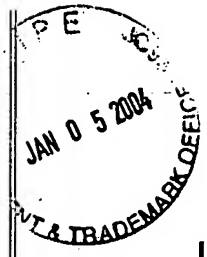
Image



PATENT
Customer No. 22,852
Attorney Docket No. 02481.1774-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Paul HABERMANN et al.	)	Group Art Unit: 1645
	)	
Serial No.: 10/076,634	)	Examiner: Patricia Ann Duffy
	)	
Filed: February 19, 2002	)	
	)	
For: NUCLEIC ACIDS, PROTEINS, AND PROCESSES FOR PRODUCING PROTEINS SUCH AS FUSION PROTEINS FOR THE SECRETION OF A PROTEIN OF INTEREST INTO BACTERIAL SUPERNATANTS	)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In a restriction requirement dated December 4, 2003, the Examiner required restriction under 35 U.S.C. § 121 between Group I (claims 1-6 and 9-23 drawn to a nucleic acid, plasmid, host cell, and method of use) and Group II (claims 7 and 8 drawn to a fusion polypeptide). Applicants provisionally elect to prosecute Group I, with traverse.

Applicants respectfully traverse the restriction requirement for the reason that the Examiner has not shown there to be a serious burden to examine the entirety of the subject matter together. In order for a restriction requirement to be proper, "[t]here must be a serious burden on the examiner...." MPEP § 803. Thus, although the Examiner has argued that the inventions are distinct, this is not a sufficient basis by itself to support a restriction requirement. Applicants respectfully submit that there is no serious

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burden to continue to examine all of the claims together without a restriction requirement.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Dated: January 5, 2004

By: _____
Carol P. Einaudi
Reg. No. 32,220

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